

JUSTICE FIRST, LLP

Jenny C. Huang, SBN 223596
 Briana Cummings, SBN
 JUSTICE FIRST, LLP
 180 Grand Avenue, Suite 1300
 Oakland, CA 94612
 Tel.: (510) 628-0695
 Fax: (510) 318-7701
 E-mail: jhuang@justicefirstllp.com
bcummings@justicefirstllp.com

Attorneys for Plaintiffs Jossie Ramos
 and Melissa Ortiz

Kamala D. Harris
 Attorney General of California
 David F. Taglienti, SBN 131622
 Deputy Attorney General
 110 West A Street, Suite 1100
 San Diego, CA 92101
 Telephone: (619) 645-2015
 Fax: (619) 645-2012
 Email: David.Taglienti@doj.ca.gov

Attorneys for Defendants Jason Horigan, Ricardo Llamas, Luis Flores, Peggy
 Maldonado, Guillermo Garcia, and Matthew Cate

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

JOSSIE RAMOS; MELISSA ORTIZ

Plaintiffs,

vs.

GARY SWATZELL; JASON
 HORIGAN; RICARDO LLAMAS;
 SERGEANT LUIS FLORES;
 LIEUTENANT PEGGY
 MALDONADO, GUILLERMO
 GARCIA, Warden of the California

Case No.: 5:12-cv-01089 (BRO)(SPx)

**STIPULATED PROTECTIVE
 ORDER**

**[SEE CHANGE TO EXHIBIT A
 MADE BY COURT]**

STIPULATED PROPOSED PROTECTIVE ORDER

JOSSIE RAMOS, MELISSA ORTIZ V. GARY SWATZELL, ET AL., CASE NO. 5:12-cv-01089 (BRO)(SPx)

1 Institution for Women; MATTHEW
 2 CATE, Secretary of California
 3 Department of Corrections and
 4 Rehabilitation; and DOES 1-10,
 5 Defendants.

6
 7 Pursuant to the Order of Magistrate Judge Sheri Pym, dated December 20,
 8 2013, the parties submit this Stipulated Proposed Protective Order:

9 **1. PURPOSES AND LIMITATIONS**

10 Disclosure and discovery activity in this action are likely to involve
 11 production of confidential, proprietary, or private information for which special
 12 protection from public disclosure and from use for any purpose other than
 13 prosecuting this litigation may be warranted. Accordingly, the parties hereby
 14 stipulate to and petition the court to enter the following Stipulated Proposed
 15 Protective Order. The parties acknowledge that this Order does not confer blanket
 16 protections on all disclosures or responses to discovery and that the protection it
 17 affords from public disclosure and use extends only to the limited information or
 18 items that are entitled to confidential treatment under the applicable legal
 19 principles. The parties further acknowledge that this Stipulated Proposed
 20 Protective Order does not entitle them to file confidential information under seal
 21 and that the local rules set forth the procedures that must be followed and the
 22 standards that will be applied when a party seeks permission from the court to file
 23 material under seal.

24 **2. DEFINITIONS**

25 2.1 Challenging Party: a Party or Non-Party that challenges the
 26 designation of information or items under this Order.

27 2.2 “CONFIDENTIAL” Information or Items: information (regardless of
 28

1 how it is generated, stored or maintained) or tangible things that qualify for
 2 protection under Federal Rule of Civil Procedure 26(c).

3 2.3 Counsel: Counsel of Record for the parties and the support staff for
 4 such counsel.

5 2.4 Designating Party: a Party or Non-Party that designates information or
 6 items that it produces in disclosures or in responses to discovery as
 7 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
 8 ONLY”.

9 2.5 Disclosure or Discovery Material: all items or information, regardless
 10 of the medium or manner in which it is generated, stored, or maintained (including,
 11 among other things, testimony, transcripts, and tangible things), that are produced
 12 or generated in disclosures or responses to discovery in this matter.

13 2.6 Expert: a person with specialized knowledge or experience in a matter
 14 pertinent to the litigation who (1) has been retained by a Party or its counsel to
 15 serve as an expert witness or as a consultant in this action, (2) is not a past or
 16 current employee of a Party or of a Party’s competitor, and (3) at the time of
 17 retention, is not anticipated to become an employee of a Party or of a Party’s
 18 competitor.

19 2.7 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
 20 Information or Items: extremely sensitive “Confidential Information or Items,”
 21 disclosure of which to another Party or Non-Party would create a substantial risk of
 22 serious harm that could not be avoided by less restrictive means.

23 2.8 Non-Party: any natural person, partnership, corporation, association,
 24 or other legal entity not named as a Party to this action.

25 2.9 Party: any party to this action, including all of its officers, directors,
 26 employees, consultants, retained experts, and Counsel of Record (and their support
 27 staffs).

28 2.10 Producing Party: a Party or Non-Party that produces Disclosure or

STIPULATED PROPOSED PROTECTIVE ORDER

JOSSIE RAMOS, MELISSA ORTIZ V. GARY SWATZELL, ET AL., CASE NO. 5:12-CV-01089 (BRO)(SPx)

PAGE 3 OF 19

1 Discovery Material in this action.

2 2.11 Professional Vendors: persons or entities that provide litigation
3 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
4 demonstrations, and organizing, storing, or retrieving data in any form or medium)
5 and their employees and subcontractors.

6 2.12 Protected Material: any Disclosure or Discovery Material that is
7 designated as “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL –
8 ATTORNEYS’ EYES ONLY.”

9 2.13 Receiving Party: a Party that receives Disclosure or Discovery
10 Material from a Producing Party.

11 3. SCOPE

12 The protections conferred by this Stipulation and Order cover not only
13 Protected Material (as defined above), but also (1) any information copied or
14 extracted from Protected Material; (2) all copies, excerpts, summaries, or
15 compilations of Protected Material; and (3) any testimony, conversations, or
16 presentations by Parties or their Counsel that might reveal Protected Material.
17 However, the protections conferred by this Stipulation and Order do not cover the
18 following information: (a) any information that is in the public domain at the time
19 of disclosure to a Receiving Party or becomes part of the public domain after its
20 disclosure to a Receiving Party as a result of publication not involving a violation
21 of this Order, including becoming part of the public record through trial or
22 otherwise; and (b) any information known to the Receiving Party prior to the
23 disclosure or obtained by the Receiving Party after the disclosure from a source
24 who obtained the information lawfully and under no obligation of confidentiality to
25 the Designating Party. Any use of Protected Material at trial shall be governed by a
26 separate agreement or order.
27
28

1 **4. DURATION**

2 Even after final disposition of this litigation, the confidentiality obligations
3 imposed by this Order shall remain in effect until a Designating Party agrees
4 otherwise in writing or a court order otherwise directs. Final disposition shall be
5 deemed to be the later of (1) dismissal of all claims and defenses in this action,
6 with or without prejudice; and (2) final judgment herein after the completion and
7 exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,
8 including the time limits for filing any motions or applications for extension of
9 time pursuant to applicable law.

10 **5. DESIGNATING PROTECTED MATERIAL**

11 5.1 Exercise of Restraint and Care in Designating Material for Protection.

12 Each Party or Non-Party that designates information or items for protection under
13 this Order must take care to limit any such designation to specific material that
14 qualifies under the appropriate standards. To the extent it is practical to do so, the
15 Designating Party must designate for protection only those parts of material,
16 documents, items, or oral or written communications that qualify – so that other
17 portions of the material, documents, items, or communications for which
18 protection is not warranted are not swept unjustifiably within the ambit of this
19 Order.

20 Mass, indiscriminate, or routinized designations are prohibited. Designations
21 that are shown to be clearly unjustified or that have been made for an improper
22 purpose (e.g., to unnecessarily encumber or retard the case development process or
23 to impose unnecessary expenses and burdens on other parties) expose the
24 Designating Party to sanctions.

25 If it comes to a Designating Party's attention that information or items that it
26 designated for protection do not qualify for protection at all or do not qualify for
27 the level of protection initially asserted, that Designating Party must promptly
28

1 notify all other parties that it is withdrawing the mistaken designation.

2 5.2 Manner and Timing of Designations. Except as otherwise provided in
3 this Order, or as otherwise stipulated or ordered, Disclosure or Discovery Material
4 that qualifies for protection under this Order must be clearly so designated before
5 the material is disclosed or produced.

6 Designation in conformity with this Order requires:

7 (a) for information in documentary form (e.g., paper or electronic
8 documents, but excluding transcripts of depositions or other pretrial or trial
9 proceedings), that the Producing Party affix the legend “CONFIDENTIAL” or
10 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” to each page that
11 contains protected material. If only a portion or portions of the material on a page
12 qualifies for protection, the Producing Party also must clearly identify the
13 protected portion(s) (e.g., by making appropriate markings in the margins) and
14 must specify, for each portion, the level of protection being asserted.

15 A Party or Non-Party that makes original documents or materials available
16 for inspection need not designate them for protection until after the inspecting
17 Party has indicated which material it would like copied and produced. During the
18 inspection and before the designation, all of the material made available for
19 inspection shall be deemed “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
20 ONLY.” After the inspecting Party has identified the documents it wants copied
21 and produced, the Producing Party must determine which documents, or portions
22 thereof, qualify for protection under this Order. Then, before producing the
23 specified documents, the Producing Party must affix the appropriate legend
24 (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
25 ONLY”) to each page that contains Protected Material. If only a portion or
26 portions of the material on a page qualifies for protection, the Producing Party also
27 must clearly identify the protected portion(s) (e.g., by making appropriate
28 markings in the margins) and must specify, for each portion, the level of protection

1 being asserted.

2 (b) for testimony given in deposition or in other pretrial or trial proceedings,
3 that the Designating Party identify on the record, before the close of the deposition,
4 hearing, or other proceeding, all protected testimony and specify the level of
5 protection being asserted. When it is impractical to identify separately each portion
6 of testimony that is entitled to protection and it appears that substantial portions of
7 the testimony may qualify for protection, the Designating Party may invoke on the
8 record (before the deposition, hearing, or other proceeding is concluded) a right to
9 have up to 21 days to identify the specific portions of the testimony as to which
10 protection is sought and to specify the level of protection being asserted. Only
11 those portions of the testimony that are appropriately designated for protection
12 within the 21 days shall be covered by the provisions of this Stipulated Proposed
13 Protective Order. Alternatively, a Designating Party may specify, at the deposition
14 or up to 21 days afterwards if that period is properly invoked, that the entire
15 transcript shall be treated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL
16 – ATTORNEYS’ EYES ONLY.”

17 Parties shall give the other parties notice if they reasonably expect a
18 deposition, hearing or other proceeding to include Protected Material so that the
19 other parties can ensure that only authorized individuals who have signed the
20 “Acknowledgment and Agreement to Be Bound” (Exhibit A) are present at those
21 proceedings. The use of a document as an exhibit at a deposition shall not in any
22 way affect its designation as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL
23 – ATTORNEYS’ EYES ONLY.”

24 Transcripts containing Protected Material shall have an obvious legend on
25 the title page that the transcript contains Protected Material, and the title page shall
26 be followed by a list of all pages (including line numbers as appropriate) that have
27 been designated as Protected Material and the level of protection being asserted by
28 the Designating Party. The Designating Party shall inform the court reporter of

STIPULATED PROPOSED PROTECTIVE ORDER

JOSSIE RAMOS, MELISSA ORTIZ V. GARY SWATZELL, ET AL., CASE NO. 5:12-CV-01089 (BRO)(SPX)

PAGE 7 OF 19

1 these requirements. Any transcript that is prepared before the expiration of a 21-
 2 day period for designation shall be treated during that period as if it had been
 3 designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its
 4 entirety unless otherwise agreed. After the expiration of that period, the transcript
 5 shall be treated only as actually designated.

6 (c) for information produced in some form other than documentary and for
 7 any other tangible items, that the Producing Party affix in a prominent place on the
 8 exterior of the container or containers in which the information or item is stored
 9 the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
 10 EYES ONLY”. If only a portion or portions of the information or item warrant
 11 protection, the Producing Party, to the extent practicable, shall identify the
 12 protected portion(s) and specify the level of protection being asserted.

13 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
 14 failure to designate qualified information or items does not, standing alone, waive
 15 the Designating Party’s right to secure protection under this Order for such
 16 material. Upon timely correction of a designation, the Receiving Party must make
 17 reasonable efforts to assure that the material is treated in accordance with the
 18 provisions of this Order.

19 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

20 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
 21 designation of confidentiality at any time. Unless a prompt challenge to a
 22 Designating Party’s confidentiality designation is necessary to avoid foreseeable,
 23 substantial unfairness, unnecessary economic burdens, or a significant disruption
 24 or delay of the litigation, a Party does not waive its right to challenge a
 25 confidentiality designation by electing not to mount a challenge promptly after the
 26 original designation is disclosed.

27 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
 28

1 resolution process by providing written notice of each designation it is challenging
2 and describing the basis for each challenge. To avoid ambiguity as to whether a
3 challenge has been made, the written notice must recite that the challenge to
4 confidentiality is being made in accordance with this specific paragraph of the
5 Protective Order. The parties shall attempt to resolve each challenge in good faith
6 and must begin the process by conferring directly (in voice to voice dialogue; other
7 forms of communication are not sufficient) within 14 days of the date of service of
8 notice. In conferring, the Challenging Party must explain the basis for its belief that
9 the confidentiality designation was not proper and must give the Designating Party
10 an opportunity to review the designated material, to reconsider the circumstances,
11 and, if no change in designation is offered, to explain the basis for the chosen
12 designation. A Challenging Party may proceed to the next stage of the challenge
13 process only if it has engaged in this meet and confer process first or establishes
14 that the Designating Party is unwilling to participate in the meet and confer process
15 in a timely manner.

16 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without
17 court intervention, the Designating Party shall file and serve a motion to retain
18 confidentiality within 21 days of the initial notice of challenge or within 14 days of
19 the parties agreeing that the meet and confer process will not resolve their dispute,
20 whichever is earlier. Each such motion must be accompanied by a competent
21 declaration affirming that the movant has complied with the meet and confer
22 requirements imposed in the preceding paragraph. Failure by the Designating Party
23 to make such a motion including the required declaration within 21 days (or 14
24 days, if applicable) shall automatically waive the confidentiality designation for
25 each challenged designation. In addition, the Challenging Party may file a motion
26 challenging a confidentiality designation at any time if there is good cause for
27 doing so, including a challenge to the designation of a deposition transcript or any
28 portions thereof. Any motion brought pursuant to this provision must be

STIPULATED PROPOSED PROTECTIVE ORDER

JOSSIE RAMOS, MELISSA ORTIZ V. GARY SWATZELL, ET AL., CASE NO. 5:12-CV-01089 (BRO)(SPx)

PAGE 9 OF 19

1 accompanied by a competent declaration affirming that the movant has complied
2 with the meet and confer requirements imposed by the preceding paragraph.

3 The burden of persuasion in any such challenge proceeding shall be on the
4 Designating Party. Frivolous challenges and those made for an improper purpose
5 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
6 expose the Challenging Party to sanctions. Unless the Designating Party has
7 waived the confidentiality designation by failing to file a motion to retain
8 confidentiality as described above, all parties shall continue to afford the material
9 in question the level of protection to which it is entitled under the Producing
10 Party's designation until the court rules on the challenge.

11 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

12 7.1 Basic Principles. A Receiving Party may use Protected Material that is
13 disclosed or produced by another Party or by a Non-Party in connection with this
14 case only for prosecuting, defending, or attempting to settle this litigation. Such
15 Protected Material may be disclosed only to the categories of persons and under
16 the conditions described in this Order. When the litigation has been terminated, a
17 Receiving Party must comply with the provisions of section 13 below (FINAL
18 DISPOSITION).

19 Protected Material must be stored and maintained by a Receiving Party at a
20 location and in a secure manner that ensures that access is limited to the persons
21 authorized under this Order.

22 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
23 otherwise ordered by the court or permitted in writing by the Designating Party, a
24 Receiving Party may disclose any information or item designated
25 "CONFIDENTIAL" only to:

26 (a) the Receiving Party's Counsel of Record in this action, as well as
27 employees of said Counsel of Record to whom it is reasonably necessary to
28

1 disclose the information for this litigation and who have signed the
 2 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit
 3 A;

4 (b) the officers, directors, and employees of the Receiving Party to whom
 5 disclosure is reasonably necessary for this litigation and who have signed the
 6 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

7 (c) Experts (as defined in this Order) of the Receiving Party to whom
 8 disclosure is reasonably necessary for this litigation and who have signed the
 9 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

10 (d) the court and its personnel;

11 (e) court reporters and their staff, professional jury or trial consultants, and
 12 Professional Vendors to whom disclosure is reasonably necessary for this litigation
 13 and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit
 14 A);

15 (f) during their depositions, witnesses in the action to whom disclosure is
 16 reasonably necessary and who have signed the “Acknowledgment and Agreement
 17 to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or
 18 ordered by the court. Pages of transcribed deposition testimony or exhibits to
 19 depositions that reveal Protected Material must be separately bound by the court
 20 reporter and may not be disclosed to anyone except as permitted under this
 21 Stipulated Proposed Protective Order.

22 (g) the author or recipient of a document containing the information or a
 23 custodian or other person who otherwise possessed or knew the information.

24 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
 25 ONLY” Information or Items. Unless otherwise ordered by the court or permitted
 26 in writing by the Designating Party, a Receiving Party may disclose any
 27 information or item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’
 28 EYES ONLY” only to:

STIPULATED PROPOSED PROTECTIVE ORDER

JOSSIE RAMOS, MELISSA ORTIZ V. GARY SWATZELL, ET AL., CASE NO. 5:12-CV-01089 (BRO)(SPx)

PAGE 11 OF 19

1 (a) the Receiving Party's Counsel of Record in this action, as well as
 2 employees of said Counsel of Record to whom it is reasonably necessary to
 3 disclose the information for this litigation and who have signed the
 4 "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit
 5 A;

6 (b) Experts of the Receiving Party (1) to whom disclosure is reasonably
 7 necessary for this litigation, (2) who have signed the "Acknowledgment and
 8 Agreement to Be Bound" (Exhibit A), and (3) as to whom the procedures set forth
 9 in paragraph 7.4(a)(2), below, have been followed];

10 (c) the court and its personnel;

11 (d) court reporters and their staff, professional jury or trial consultants, and
 12 Professional Vendors to whom disclosure is reasonably necessary for this litigation
 13 and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit
 14 A); and

15 (e) the author or recipient of a document containing the information or a
 16 custodian or other person who otherwise possessed or knew the information.

17 (f) Pursuant to the court's order, dated 12/20/13, Plaintiffs' counsel shall be
 18 permitted to show any statements made by a plaintiff with that plaintiff, regardless
 19 of whether such statements are designated "HIGHLY CONFIDENTIAL".

20 7.4 Procedures for Approving or Objecting to Disclosure of "HIGHLY
 21 CONFIDENTIAL – ATTORNEYS' EYES ONLY" Information or Items to
 22 Experts.

23 (a) Unless otherwise ordered by the court or agreed to in writing by the
 24 Designating Party, a Party that seeks to disclose to an Expert (as defined in this
 25 Order) any information or item that has been designated "HIGHLY
 26 CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to paragraph 7.3(c)
 27 first must make a written request to the Designating Party that (1) identifies the
 28 general categories of "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES

1 ONLY” information that the Receiving Party seeks permission to disclose to the
2 Expert, (2) sets forth the full name of the Expert and the city and state of his or her
3 primary residence, (3) attaches a copy of the Expert’s current resume, (4) identifies
4 the Expert’s current employer(s), (5) identifies each person or entity from whom
5 the Expert has received compensation or funding for work in his or her areas of
6 expertise or to whom the expert has provided professional services, including in
7 connection with a litigation, at any time during the preceding five years, and (6)
8 identifies (by name and number of the case, filing date, and location of court) any
9 litigation in connection with which the Expert has offered expert testimony,
10 including through a declaration, report, or testimony at a deposition or trial, during
11 the preceding five years.

12 (b) A Party that makes a request and provides the information specified in
13 the preceding respective paragraphs may disclose the subject Protected Material to
14 the identified Expert unless, within 14 days of delivering the request, the Party
15 receives a written objection from the Designating Party. Any such objection must
16 set forth in detail the grounds on which it is based.

17 (c) A Party that receives a timely written objection must meet and confer
18 with the Designating Party (through direct voice to voice dialogue) to try to resolve
19 the matter by agreement within seven days of the written objection. If no
20 agreement is reached, the Party seeking to make the disclosure to the Expert may
21 file a motion seeking permission from the court to do so. Any such motion must
22 describe the circumstances with specificity, set forth in detail the reasons why the
23 disclosure to the Expert is reasonably necessary, assess the risk of harm that the
24 disclosure would entail, and suggest any additional means that could be used to
25 reduce that risk. In addition, any such motion must be accompanied by a competent
26 declaration describing the parties’ efforts to resolve the matter by agreement (i.e.,
27 the extent and the content of the meet and confer discussions) and setting forth the
28 reasons advanced by the Designating Party for its refusal to approve the disclosure.

STIPULATED PROPOSED PROTECTIVE ORDER

JOSSIE RAMOS, MELISSA ORTIZ V. GARY SWATZELL, ET AL., CASE NO. 5:12-CV-01089 (BRO)(SPX)

PAGE 13 OF 19

1 In any such proceeding, the Party opposing disclosure to the Expert shall
 2 bear the burden of proving that the risk of harm that the disclosure would entail
 3 (under the safeguards proposed) outweighs the Receiving Party's need to disclose
 4 the Protected Material to its Expert.

5
 6 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
 7 **PRODUCED IN OTHER LITIGATION**

8 If a Party is served with a subpoena or a court order issued in other litigation
 9 that compels disclosure of any information or items designated in this action as
 10 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES
 11 ONLY":

12 (a) promptly notify in writing the Designating Party. Such notification shall
 13 include a copy of the subpoena or court order;

14 (b) promptly notify in writing the party who caused the subpoena or order to
 15 issue in the other litigation that some or all of the material covered by the subpoena
 16 or order is subject to this Protective Order. Such notification shall include a copy
 17 of this Stipulated Proposed Protective Order; and

18 (c) cooperate with respect to all reasonable procedures sought to be pursued
 19 by the Designating Party whose Protected Material may be affected.

20 If the Designating Party timely seeks a protective order, the Party served
 21 with the subpoena or court order shall not produce any information designated in
 22 this action as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL –
 23 ATTORNEYS' EYES ONLY" before a determination by the court from which the
 24 subpoena or order issued, unless the Party has obtained the Designating Party's
 25 permission. The Designating Party shall bear the burden and expense of seeking
 26 protection in that court of its confidential material – and nothing in these
 27 provisions should be construed as authorizing or encouraging a Receiving Party in
 28 this action to disobey a lawful directive from another court.

**9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE
PRODUCED IN THIS LITIGATION**

(a) The terms of this Order are applicable to information produced by a Non-Party in this action and designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY". Such information produced by Non-Parties in connection with this litigation is protected by the remedies and relief provided by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

1. promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;
2. promptly provide the Non-Party with a copy of the Stipulated Proposed Protective Order in this litigation, the relevant discovery request(s), and a reasonably specific description of the information requested; and
3. make the information requested available for inspection by the Non-Party.

(c) If the Non-Party fails to object or seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party

1 shall bear the burden and expense of seeking protection in this court of its
 2 Protected Material.

3 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

4
 5 If a Receiving Party learns that, by inadvertence or otherwise, it has
 6 disclosed Protected Material to any person or in any circumstance not authorized
 7 under this Stipulated Proposed Protective Order, the Receiving Party must
 8 immediately (a) notify in writing the Designating Party of the unauthorized
 9 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the
 10 Protected Material, (c) inform the person or persons to whom unauthorized
 11 disclosures were made of all the terms of this Order, and (d) request such person or
 12 persons to execute the "Acknowledgment and Agreement to Be Bound" that is
 13 attached hereto as Exhibit A.

14 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR** 15 **OTHERWISE PROTECTED MATERIAL**

16 When a Producing Party gives notice to Receiving Parties that certain
 17 inadvertently produced material is subject to a claim of privilege or other
 18 protection, the obligations of the Receiving Parties are those set forth in Federal
 19 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
 20 whatever procedure may be established in an e-discovery order that provides for
 21 production without prior privilege review. Pursuant to Federal Rule of Evidence
 22 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure
 23 of a communication or information covered by the attorney-client privilege or
 24 work product protection, the parties may incorporate their agreement in the
 25 stipulated proposed protective order submitted to the court.
 26

27 **12. MISCELLANEOUS**

28 **12.1 Right to Further Relief.** Nothing in this Order abridges the right of any

STIPULATED PROPOSED PROTECTIVE ORDER

JOSSIE RAMOS, MELISSA ORTIZ V. GARY SWATZELL, ET AL., CASE NO. 5:12-CV-01089 (BRO)(SPX)

PAGE 16 OF 19

1 person to seek its modification by the court in the future.

2 12.2 Right to Assert Other Objections. By stipulating to the entry of this
3 Protective Order no Party waives any right it otherwise would have to object to
4 disclosing or producing any information or item on any ground not addressed in
5 this Stipulated Proposed Protective Order. Similarly, no Party waives any right to
6 object on any ground to use in evidence of any of the material covered by this
7 Protective Order.

8 12.3 Filing Protected Material. Without written permission from the
9 Designating Party or a court order secured after appropriate notice to all interested
10 persons, a Party may not file in the public record in this action any Protected
11 Material. A Party that seeks to file under seal any Protected Material must comply
12 with the local rules. Protected Material may only be filed under seal pursuant to a
13 court order authorizing the sealing of the specific Protected Material at issue. A
14 sealing order will issue only upon a request establishing that the Protected Material
15 at issue is privileged, protectable as a trade secret, or otherwise entitled to
16 protection under the law. If a Receiving Party's request to file Protected Material
17 under seal is denied by the court, then the Receiving Party may file the Protected
18 Material in the public record unless otherwise instructed by the court.

19 **13. FINAL DISPOSITION**

20 Within 60 days after the final disposition of this action, as defined in
21 paragraph 4, each Receiving Party must return all Protected Material to the
22 Producing Party or destroy such material. As used in this subdivision, "all
23 Protected Material" includes all copies, abstracts, compilations, summaries, and
24 any other format reproducing or capturing any of the Protected Material. Whether
25 the Protected Material is returned or destroyed, the Receiving Party must submit a
26 written certification to the Producing Party (and, if not the same person or entity, to
27 the Designating Party) by the 60-day deadline that (1) identifies (by category,
28

where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION).

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: January 3, 2014
Oakland, California

JUSTICE FIRST, LLP

Attorneys for Plaintiffs Jossie Ramos and
Melissa Ortiz

By:

/s/ Jenny Huang

Jenny C. Huang
180 Grand Avenue, Suite 1300
Oakland, CA 94612

Dated: January 3, 2014
San Diego, California

ATTORNEY GENERAL OF CALIFORNIA

Attorneys for Defendants Jason Horigan,
Ricardo Llamas, Luis Flores, Peggy
Maldonado, Guillermo Garcia, and
Matthew Cate

By:

/s/ David Taglienti

David F. Taglienti
Deputy Attorney General

IT IS SO ORDERED.

Dated: January 7, 2014



THE HONORABLE SHERI PYM

STIPULATED PROPOSED PROTECTIVE ORDER

JOSSIE RAMOS, MELISSA ORTIZ V. GARY SWATZELL, ET AL., CASE NO. 5:12-CV-01089 (BRO)(SPX)

PAGE 18 OF 19

JUSTICE FIRST, LLP

EXHIBIT AACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____
 _____ [print or type full address], declare under penalty of perjury that I have
 read in its entirety and understand the Stipulated Protective Order that was issued
 by the United States District Court for the Central District of California on
 _____ (date) in the case of *JOSSIE RAMOS, MELISSA ORTIZ V. GARY*
SWATZELL, ET AL., CASE NO. 5:12-CV-01089 (BRO)(SPX) I agree to comply with and
 to be bound by all the terms of this Stipulated Protective Order and I understand
 and acknowledge that failure to so comply could expose me to sanctions and
 punishment in the nature of contempt. I solemnly promise that I will not disclose in
 any manner any information or item that is subject to this Stipulated Protective
 Order to any person or entity except in strict compliance with the provisions of this
 Order.

I further agree to submit to the jurisdiction of the United States District
 Court for the Central District of California for the purpose of enforcing the terms
 of this Stipulated Protective Order, even if such enforcement proceedings occur
 after termination of this action.

I hereby appoint _____ [print or type full name] of
 _____ [print or type full address and telephone number]
 as my California agent for service of process in connection with this action or any
 proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____ [printed name]

Signature: _____ [signature]

STIPULATED PROPOSED PROTECTIVE ORDER

JOSSIE RAMOS, MELISSA ORTIZ V. GARY SWATZELL, ET AL., CASE NO. 5:12-CV-01089 (BRO)(SPX)

PAGE 19 OF 19